IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.

WRIT PETITION NO. 6692 OF 2006.

Sahakar Night School. .. Petitioner.
V/s.
Rajan R. Pathak & ors. ... Respondents.

Shri G.N. Salunke for the petitioner.
Shri Sunil Dighe for respondent No.1.
Shri Kishore Shetty for respondent No.2.

CORAM : R.M.S. KHANDEPARKAR,J.

DATED : 12.10.2006.

P.C. :

. Heard.

2. Petitioner challenges the order dated 21st July 2006. The challenge is mainly on the ground that the the Tribunal erred in holding that the termination order was not approved by the Competent Authority. In case impugned order was based solely on that ground then perhaps it would have been a justifiable ground to interfere in the impugned order in exercise of writ jurisdiction under Article 227 of the Constitution of India. However the Tribunal has also observed that in the seniority list respondent No.1 appears to be senior to three teachers namely, Shri Kunte, Shri S.K.Chavan and Shri Wakshe.

3. Considering the same, termination of respondent No.1 was held to be improper and contrary

to provisions of law which require services of junior-most teacher to be terminated in case of fall in number of pupils or closure of divisions in the school, appearing in Rule 27 of the M.E.P.S. Rules. If so, the finding relating to termination being not by the competent authority is not the sole ground on which impugned order having been passed, and impugned order being clearly justifiable considering seniority list, which is totally ignored by the concerned officer, no case is made out for interference in the impugned order in exercise of powers under Article 227 of the Constitution of India.

4. There being no jurisdictional error committed by the Tribunal, petition fails and the same is hereby rejected.

(R.M.S.KHANDEPARKAR,J.)